

ORIGINAL

DIVISION OF CONSUMER ADVOCACY
Department of Commerce and
Consumer Affairs
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PUBLIC UTILITIES
COMMISSION

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FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
PUBLIC UTILITIES COMMISSION)
Instituting a Proceeding to Investigate the)
Implementation of Feed-in Tariffs.)

DOCKET NO. 2008-0273

DIVISION OF CONSUMER ADVOCACY'S
RESPONSES TO INFORMATION REQUESTS PREPARED BY THE COMMISSION'S
CONSULTANT, THE NATIONAL REGULATORY RESEARCH INSTITUTE

Pursuant to Commission's letter dated August 3, 2009, the Division of Consumer Advocacy submits its **RESPONSES TO INFORMATION REQUESTS PREPARED BY THE COMMISSION'S CONSULTANT, THE NATIONAL REGULATORY RESEARCH INSTITUTE** in the above docketed matter.

DATED: Honolulu, Hawaii, August 14, 2009.

Respectfully submitted,

By Catherine P. Awakuni
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Executive Director

DIVISION OF CONSUMER ADVOCACY

DOCKET NO. 2008-0273

PUBLIC UTILITIES COMMISSION

**DIVISION OF CONSUMER ADVOCACY'S RESPONSES TO
INFORMATION REQUESTS PREPARED BY THE COMMISSION'S CONSULTANT,
THE NATIONAL REGULATORY RESEARCH INSTITUTE**

PUC-IR-1 During the course of the hearing and in submittals, certain parties described the difficulty in monetizing state tax credits. The Commission asks for a detailed explanation, citing the specific tax statutes of the tax credits that developers cannot often monetize. If the tax credits are useful for some projects, such as residential solar PV installations, but not others, please specify which projects the specific available tax credits are or are not frequently available for and why.

RESPONSE: It is the Consumer Advocate's understanding that it is the developers' assertions regarding the difficulties surrounding monetizing tax credits. Thus, the Consumer Advocate contends that it is the developers' burden to offer a detailed explanation as to which tax credits can and cannot be monetized in determining reasonable feed-in tariff ("FIT") rates consistent with the principles outlined in the HECO-Consumer Advocate Joint FIT Proposal. However, the Consumer Advocate notes that in determining reasonable FIT rates, the Commission should presume that eligible project developers are able to use all published federal and state tax incentives, taking into account the potential expiration dates of all relevant tax incentives.¹ The Consumer Advocate notes that

¹ See KEMA Report at 28 (Section 3.5.3) (discussing the recommended process for determining FIT rates) (noting that "[t]he consultant [recommending a FIT rate] will assume that [eligible] project developers are able to use all published federal and state tax incentives, taking into account potential expiration dates [of relevant tax incentives].")

such an approach ensures that FIT pricing ultimately benefits electric utility customers by providing that the relevant electric utility purchases energy at FIT rates that are as cost-effective as commercially possible.² Excluding the tax credits might yield rates that are higher than necessary, which would be contrary to the customers' interests.

² For purposes of this response, the Consumer Advocate views cost-effectiveness from the standpoint of the purchasing electric utility. In other words, the Consumer Advocate presumes that as a rational business actor, the purchasing electric utility would seek to purchase energy from a FIT provider at a rate that is as low as possible.

PUC-IR-2

The Commission is evaluating FIT rates that are non-levelized. Like levelized rates, such rates would provide projects recovery of their costs and a reasonable rate of return. Non-levelized rates would increase over time based on a predetermined discount or inflation rate. Pages 27 through 29 of Haiku Design and Development's opening brief describe and illustrate such an approach.

The Commission requests that the parties provide feedback on whether such rates, if they provide the same level of compensation (when adjusting for the time value of money) would be practicable for developers. In particular, could debt and equity financing structures accommodate rates that provide lower compensation early on and more compensation later, reducing early cash flow? Would doing so increase the overall required FIT compensation?

RESPONSE:

The Consumer Advocate is not in a position to offer an opinion as to whether levelized or non-levelized FIT rates provide adequate compensation for renewable energy project developers. However, like the HECO Companies, the Consumer Advocate notes that in the past, the HECO Companies have entered into energy purchase arrangements that provide for contract payments that are lower in the earlier years and higher in the later years. The Consumer Advocate points out that the non-levelized payment structure did not prevent the utilities' contracting partners from completing their energy production projects. Depending on the use of proper calculations and discount factor, levelized and non-levelized rates should result in the same overall compensation in terms of real dollars. Observations regarding the different impacts that levelized or non-levelized FIT rates would have on customer rates could also be made. Nevertheless, the Consumer Advocate notes that the

assessment as to what is acceptable to an individual project developer varies according to a number of interrelated factors known only to the individual project developer.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S RESPONSES TO INFORMATION REQUESTS PREPARED BY THE COMMISSION'S CONSULTANT, THE NATIONAL REGULATORY RESEARCH INSTITUTE** was duly served upon the following parties, by personal service, hand delivery, and/or U.S. mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d).

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DATED: Honolulu, Hawaii, August 14, 2009.

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